

# EXHIBIT A

Artis Ellis

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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

|                        |   |               |
|------------------------|---|---------------|
| ARTIS ELLIS            | : |               |
| Plaintiff,             | : |               |
| vs.                    | : |               |
| EDUCATIONAL COMMISSION | : | C. A. No.     |
| FOR FOREIGN MEDICAL    | : | 4:14-cv-02126 |
| GRADUATES,             | : |               |
| Defendant.             | : |               |

VIDEOTAPED DEPOSITION OF ARTIS ELLIS

Called as a witness by the Defendant, taken before Peggy Ann Antone, a Certified Shorthand Reporter in and for the State of Texas, on May 11, 2016, beginning at 9:51 a.m., at the offices of Kennard Richard P.C., 2603 Augusta Drive, Suite 1450, Houston, Texas, pursuant to the Federal Rules of Civil Procedure.

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| <p style="text-align: right;">206</p> <p>1 Misleading as worded. And to the extent that it calls</p> <p>2 for a legal conclusion.</p> <p>3 Q. (BY MS. O'DRISCOLL) October 22nd, 2012, or any</p> <p>4 day thereafter prior to your termination, did you ever</p> <p>15:53 5 call one of your physicians and ask for a doctor's note</p> <p>6 to approve FMLA leave?</p> <p>7 A. No, because I was out on administrative leave.</p> <p>8 Q. Okay. And during that time after October 22nd,</p> <p>9 2012, and thereafter, you were able and willing to work;</p> <p>15:53 10 correct? You were in a physical condition such that you</p> <p>11 could work; correct?</p> <p>12 A. Repeat the question one more time.</p> <p>13 Q. October 22nd, 2012, when you returned to work</p> <p>14 on full release, you, from that point forward, were able</p> <p>15:54 15 to work; correct?</p> <p>16 MR. KENNARD: Hold on. Objection. Assumes</p> <p>17 facts. Misstates -- and to the extent it misstates</p> <p>18 previous testimony. And misleading as worded.</p> <p>19 MS. O'DRISCOLL: How does that misstate</p> <p>15:54 20 previous testimony?</p> <p>21 MR. KENNARD: Can you repeat back the</p> <p>22 question, please? And to the extent that it does, but</p> <p>23 go ahead and read back the question.</p> <p>24 THE REPORTER: QUESTION: "October 22nd,</p> <p>15:54 25 2012, when you returned to work on full release, you,</p>   | <p style="text-align: right;">208</p> <p>1 Q. Any type of a doctor -- doctor's note, anything</p> <p>2 of any sort that would say I can come back to work but I</p> <p>3 need X, Y and Z, you never had a physician do that, did</p> <p>4 you?</p> <p>15:56 5 A. The physicians knew that I had a -- a patch.</p> <p>6 My eyes were -- were crossed. Betty knew. Sharon knew.</p> <p>7 I mean, Nancy and Chris was there. They saw it. They</p> <p>8 knew.</p> <p>9 Q. But did you ever have a doctor's note saying</p> <p>15:56 10 anything to that effect?</p> <p>11 MR. KENNARD: Objection. Asked and</p> <p>12 answered.</p> <p>13 MS. O'DRISCOLL: Well, she actually hasn't</p> <p>14 answered it.</p> <p>15:56 15 MR. KENNARD: You asked -- she's answered</p> <p>16 it. You don't like the way that she's answered it. I</p> <p>17 trust that she's answering it to the best of her</p> <p>18 ability. But asking the same question over and over</p> <p>19 again doesn't necessarily mean that she's going to give</p> <p>15:56 20 you some response.</p> <p>21 MS. O'DRISCOLL: No. Asking a question to</p> <p>22 get an answer to the question I'm asking, not the</p> <p>23 question that she wants it to be, but an answer to the</p> <p>24 question I am asking.</p> <p>15:57 25 MR. KENNARD: If she --</p>   |
| <p style="text-align: right;">207</p> <p>1 from that point forward, were able to work; correct?"</p> <p>2 MR. KENNARD: So you -- by stating that she</p> <p>3 was on full release, she testified earlier that one</p> <p>4 doctor had given her a note, but that others had not</p> <p>15:54 5 released her, one; two, and when you talk about leave</p> <p>6 return, and as I've objected in other questions, you're</p> <p>7 inferring that -- and trying to get her to reach some</p> <p>8 legal conclusion that FMLA is the only vehicle by which</p> <p>9 to get additional leave. As you know, the Americans</p> <p>15:55 10 with Disabilities Act provides for additional leave or</p> <p>11 additional time off as an accommodation in the</p> <p>12 workplace. So whether it was -- she asked for FMLA or</p> <p>13 not does not necessarily mean that she couldn't have</p> <p>14 asked for a reasonable accommodation under the Americans</p> <p>15:55 15 with Disabilities Act. So to that extent, it</p> <p>16 potentially calls for a legal conclusion and misstates</p> <p>17 previous testimony.</p> <p>18 Q. (BY MS. O'DRISCOLL) I'm simply asking if you</p> <p>19 were physically able to work October 22nd and forward?</p> <p>15:55 20 A. With accommodation.</p> <p>21 Q. And you never asked your -- your physician to</p> <p>22 sign a document saying that you needed an accommodation;</p> <p>23 correct?</p> <p>24 A. I didn't -- what -- what document? The -- what</p> <p>15:56 25 document are we talking --</p> | <p style="text-align: right;">209</p> <p>1 MS. O'DRISCOLL: That's all I'm asking for.</p> <p>2 MR. KENNARD: Well, the problem is --</p> <p>3 MS. O'DRISCOLL: There's two different --</p> <p>4 MR. KENNARD: -- I'm hearing the same</p> <p>15:57 5 question over and over again.</p> <p>6 MS. O'DRISCOLL: That's because she's not</p> <p>7 answering the question.</p> <p>8 MR. KENNARD: Okay. I don't know what to</p> <p>9 tell you, but you can't keep asking the same question</p> <p>15:57 10 over and over again. If you want to phrase it in a way</p> <p>11 that she might understand it better or ask it in a</p> <p>12 different way, I mean, that's fine. But the same</p> <p>13 question over and over again until you get the answer</p> <p>14 that you think she should be giving, well, that's not</p> <p>15:57 15 allowed for by the rules.</p> <p>16 MS. O'DRISCOLL: Well, that's two different</p> <p>17 things, Alfonso, and you know that. That's why this is</p> <p>18 taking so long, because I ask a question and I'm not</p> <p>19 getting an answer to my question. She can give whatever</p> <p>15:57 20 is a truthful honest answer --</p> <p>21 MR. KENNARD: Sure.</p> <p>22 MS. O'DRISCOLL: In front of a judge and a</p> <p>23 jury, and that's all I want.</p> <p>24 MR. KENNARD: Sure.</p> <p>15:57 25 MS. O'DRISCOLL: I just want a truthful</p> |

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| <p style="text-align: right;"><b>210</b></p> <p>1 answer.</p> <p>2 MR. KENNARD: And she's been -- she's under</p> <p>3 oath. And if you have any reason to believe that she's</p> <p>4 being untruthful, that's certainly something that can be</p> <p>15:57 5 addressed at some later date. But for my purposes and</p> <p>6 for the purpose of my objection, which is strictly that</p> <p>7 it's been asked and answered, that's all my objection</p> <p>8 is.</p> <p>9 MS. O'DRISCOLL: Okay. Okay.</p> <p>15:58 10 MR. KENNARD: I'm hearing the same question</p> <p>11 over and over again. I'd be remiss not to object. I</p> <p>12 would probably --</p> <p>13 MS. O'DRISCOLL: I understand. I don't</p> <p>14 want to use any more of my time on this.</p> <p>15:58 15 MR. KENNARD: Or can ask it a different</p> <p>16 way.</p> <p>17 MS. O'DRISCOLL: I've asked it 800</p> <p>18 different ways.</p> <p>19 Q. (BY MS. O'DRISCOLL) Ms. Ellis, did you wear a</p> <p>15:58 20 patch to work on October 22nd, 2012?</p> <p>21 A. Yes, I did.</p> <p>22 Q. And did you have it on during these meetings</p> <p>23 that you had with Ms. Ambrose, Mr. Paul, and Mr. LeHew?</p> <p>24 A. Yes, I did.</p> <p>15:58 25 Q. How long after that day on October 22nd did you</p> | <p style="text-align: right;"><b>212</b></p> <p>1 A. I did.</p> <p>2 Q. And, in fact, did you tell the Texas Workforce</p> <p>3 Commission on your online entries that you were ready</p> <p>4 and able to work?</p> <p>15:59 5 A. I did.</p> <p>6 Q. If we go back to that big packet that we had,</p> <p>7 if you could look at ECFMG/Ellis 542, and that is</p> <p>8 Exhibit 25.</p> <p>9 And if you look at the top, it says, "Texas</p> <p>16:00 10 Workforce Commission Internet Claim Certification," and</p> <p>11 it has your name, Artis Ellis --</p> <p>12 A. On 542?</p> <p>13 Q. Yes.</p> <p>14 A. I'm looking at 4.</p> <p>16:00 15 Q. Yes, 542.</p> <p>16 Is this a document that -- that you filled</p> <p>17 out on -- at multiple -- for different time periods for</p> <p>18 the -- online with the TWC?</p> <p>19 A. Yes.</p> <p>16:01 20 Q. And at the top it says, "Texas Workforce</p> <p>21 Commission Internet Claim Certification," and it has</p> <p>22 your name, "Artis Ellis," and then "Claim Week Dated:</p> <p>23 11-10-12, 11-17-12, Claim Period Covers 11-4-12 through</p> <p>24 11-17-12."</p> <p>16:02 25 So this is -- this is for the period of</p>  |
| <p style="text-align: right;"><b>211</b></p> <p>1 continue to wear an eye patch?</p> <p>2 A. To the best of my knowledge, probably about six</p> <p>3 months.</p> <p>4 Q. And did you wear an eye patch every day?</p> <p>15:58 5 A. Yes.</p> <p>6 Q. And if it varied, you can say, but would it --</p> <p>7 is this something that you wear all day long or only</p> <p>8 when you do certain activities? Can you give us a sense</p> <p>9 as to how long you would wear it?</p> <p>15:58 10 A. For the most part, all day.</p> <p>11 Q. All day every day.</p> <p>12 A. Yes.</p> <p>13 Q. For six months.</p> <p>14 A. Yes.</p> <p>15:59 15 Q. And this was a result of -- of the surgery that</p> <p>16 you had had.</p> <p>17 A. Yes.</p> <p>18 Q. And did you in any way see that wearing an eye</p> <p>19 patch was going to impact your job duties at all as</p> <p>15:59 20 center manager?</p> <p>21 A. Maybe using a computer or the lighting.</p> <p>22 Q. Anything else?</p> <p>23 A. Not that I can think of.</p> <p>24 Q. Aside from the eye patch, did you feel</p> <p>15:59 25 physically able to work October 22nd and after?</p>   | <p style="text-align: right;"><b>213</b></p> <p>1 time shortly -- just right after you were terminated</p> <p>2 on -- on November 1st; correct?</p> <p>3 A. That is correct.</p> <p>4 Q. It says, "Initial Claim... 11-4-12.</p> <p>16:02 5 "Filing date, 11-18," and then there's a</p> <p>6 series of questions. And if you look at question number</p> <p>7 5, "Were you physically able to work each day?" And you</p> <p>8 checked, "Yes"; is that correct?</p> <p>9 A. Yes.</p> <p>16:02 10 Q. And number 6, "Were you available to accept</p> <p>11 full-time work for all of the days and hours required</p> <p>12 for the type of work that you are seeking, if it had</p> <p>13 been offered?" And you checked, "Yes"; is that correct?</p> <p>14 A. Yes.</p> <p>16:02 15 Q. And you had to fill this out for -- for a</p> <p>16 period of time while you were seeking unemployment.</p> <p>17 Do you ever remember checking the box</p> <p>18 saying, no, that you weren't able to work?</p> <p>19 A. No.</p> <p>16:03 20 Q. Okay. Do you recall what day you stopped</p> <p>21 receiving short-term disability from Sun?</p> <p>22 A. I do not.</p> <p>23 Q. Do you recall if you received it right up until</p> <p>24 the time you went back to work on -- on October 22nd,</p> <p>16:04 25 2012?</p> |

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